



03-02-06

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PTO/SB/21 (04-04)

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/004,097
	Filing Date	October 31, 2001
	First Named Inventor	Jakobik et al
	Art Unit	2633
	Examiner Name	David Lee
Total Number of Pages in This Submission	Attorney Docket Number	2676-000008

**ENCLOSURES (check all that apply)**

<input checked="" type="checkbox"/> Fee Transmittal Form  <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment / Reply  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Technology Center (TC)  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  <b>Return Postcard</b>		
<table border="1"><tr><td>Remarks</td><td>The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 08-0750. A duplicate copy of this sheet is enclosed.</td></tr></table>			Remarks	The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 08-0750. A duplicate copy of this sheet is enclosed.
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**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name	Timothy D. MacIntyre	Reg. No.	42824
Signature					
Date	3/1/06				

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Dolores R. Lamar	Express Mail Label No.	EV 853 855 961 US (3/1/2006)
Signature		Date	March 1, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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# **FEE TRANSMITTAL** **for FY 2006**

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 500

## Complete if Known

Application Number	10/004,097
Filing Date	October 31, 2001
First Named Inventor	Jakobik et al
Examiner Name	David Lee
Art Unit	2633
Attorney Docket No.	2676-000008

## METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify) : \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 08-0750 Deposit Account Name: Harness, Dickey & Pierce, PLC

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) ☒ Credit any overpayments

Under 37 CFR 1.16 and 1.17

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## FEE CALCULATION

## 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee(\$)	Fee(\$)	Small Entity Fee(\$)	Fee(\$)	Small Entity Fee(\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

## 2. EXCESS CLAIM FEES

## Fee Description

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

## Small Entity

Fee (\$)

Fee (\$)

50 25

200 100

360 180

## Total Claims

## Extra Claims

## Fee(\$)

## Fee Paid (\$)

\_\_\_\_\_ -20 or HP= 0 x \_\_\_\_\_ = 0

HP = highest number of total claims paid for, if greater than 20.

## Indep. Claims

## Extra Claims

## Fee(\$)

## Fee Paid (\$)

\_\_\_\_\_ - 3 or HP= 0 x \_\_\_\_\_ = 0

HP = highest number of independent claims paid for, if greater than 3.

## Multiple Dependent Claims

## Fee (\$)

## Fee Paid (\$)

## 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
_____	_____	_____ / 50 = 0 (round up to a whole number) x	_____	_____

## 4. OTHER FEE(S)


Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Appeal Brief

## Fees Paid (\$)

500.00

## SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	42824	Telephone	248-641-0230
Name (Print/Type)	Timothy D. MacIntyre			Date	3/01/06

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket No. 2676-000008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Group Art Unit:	2633	)	
Examiner:	David Lee	)	
Applicants:	Jakobik et al	)	<b>Appeal Brief</b>
Serial No.:	10/004,097	)	
Filed:	October 31, 2001	)	
Title:	Architectural Arrangement for Core Optical Networks	)	

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**BRIEF ON BEHALF OF APPELLANTS**

This is an appeal from the action of the Examiner dated October 5, 2005, finally rejecting Claims 1, 3-9 and 11 of the present application. Copies of the appealed claims are attached as an appendix.

**I. Real Party In Interest**

The real party in interest in the present application is PTS Corporation who is the current assignee of the application.

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## **II. Related Appeals and Interferences**

There are no known related appeals or interferences which will directly affect, be directly affected by, or otherwise have a bearing on the Board's decision in the pending appeal.

## **III. Status Of The Claims**

Claims 1, 3-9, 11-13 and 15 are pending in the present application. Although an Advisory Action recently received indicates that all of these claims are rejected, applicant assumes that only Claims 1, 3-9 and 11 stand rejected and Claims 12, 13 and 15 remain allowed as indicated in the Office Action mailed October 5, 2005. Claims 8 and 32 were previously cancelled from the application.

## **IV. Status Of Amendments**

Applicant's response after final rejection did not propose any amendments to the pending claims. Therefore, Claims 1, 3-9 and 11 stand as presented in the attached appendix.

## **V. Summary of the Claimed Subject Matter**

Applicant's invention is directed generally to an architectural arrangement that enables optical switching at different optical layers within an optical transport network. To enable switching, signal impairment compensation is performed at each layer of the network. For instance, dispersion compensation is applied at each layer to equalize signal impairment levels. Gain flattening and optical transient suppression are also applied at each layer. In addition, these techniques must be applied to each optical signal within a given layer to achieve the signal power needed to traverse long distances.

In Claim 1, the architectural arrangement 30 includes: an optical transport line residing in an optical transport network; a multiplexing component connected to the optical transport line; and a plurality of signal impairment compensation mechanisms associated with the multiplexing component. The optical transport line is operable to carry the optical system signal 29 which is constituted in a layered membership relationship that defines at least two optical layers 12, 14, 16, 18, 20. The multiplexing component receives a plurality of optical data signals 22 therein, combine the plurality of optical data signals 22 to form the optical system signal 29, and launches the optical system signal into the optical transport line. As shown in Figure 2, the plurality of signal impairment compensation mechanisms 32 are operable across each of the optical layers of the optical system signal 29 to perform a signal impairment compensation operation on each of the optical signals therein, where the signal impairment compensation operation includes dynamic gain flattening, optical transient suppression and dispersion compensation. Basis for this claim is found throughout the application as originally filed, including on pages 5 and 6 of the specification.

## **VI. Grounds of Rejection to be Reviewed on Appeal**

- I. Whether Claims 1, 3-5 and 11 are unpatentable over U.S. Patent No. 6,738,181 (Nakamoto) in view of admitted prior art under 35 U.S.C. §102(b)?

## **VII. Arguments**

- I. Rejection of Claims 1, 3-5 and 11 as being unpatentable over U.S. Patent No. 6,738,181 (Nakamoto) in view of admitted prior art.

Nakamoto is directed generally to a polarization crossing method for generating wavelength-division multiplexing optical signals. First, the Examiner asserts that Nakamoto discloses performing impairment compensation of each of the data signals (referring to 142-1 to 141-15). However, since Claim 1 of the present application defines the signal impairment compensation operation to include dynamic gain flattening, optical transient suppression and dispersion compensation, amplification is not a form of impairment compensation as recited in Applicant's claimed invention. Standing alone this distinction may not seem significant, but it contributes to the overall deficiency of the reference. In this case, Nakamoto fails to disclose a signal impairment compensation operation on each data signal at the lowest level of the hierarchy as recited in the Applicant's claimed invention.

Moreover, Nakamoto fails to teach or suggest performing signal impairment compensation on each of the optical signals within a given layer as recited in Applicant's claimed invention. With reference to col. 19, lines 63-67 of Nakamoto, dispersion

compensation values for compensating data signals 141-1 and 141-2 are computed using the data signal 141-3 as the reference. In other words, no dispersion compensation is performed on data signal 141-3. In fact, performing dispersion compensation on this data signal will adversely effect polarization crossing objectives. Rather than eliminate negative dispersion effects as asserted by the Examiner, performing a signal impairment compensation of this signal may cause it to interact with adjacent signals. Thus, Nakamoto *teaches away* from performing dispersion compensation on each of the data signals at this layer.

Likewise, no dispersion compensation is applied to the sub-band signals being output from multiplexer 144-2 and 144-4. Again, performing dispersion compensation on these data signals will adversely affect the polarization crossing objectives of Nakamoto reference. Therefore, from the teachings of the Nakamoto reference, one of ordinary skill would not have been motivated to provide dispersion compensation to each signal of a given optical layer. It is further understood that Nakamoto does not contemplate switching of optical signals at any of the intermediate layers. For this additional reason, one of ordinary skill would not have been motivated to provide dispersion compensation to each signal of each optical layer as recited in Applicant's claimed invention.

The Examiner also concedes that Nakamoto does not disclose performing dynamic gain flattening or optical transient suppression on each of the optical signals at each of the optical layers within the network as recited in Applicant's claimed invention. The Examiner relies in part upon Applicant's characterization of the prior art. Although the Applicant acknowledges that techniques for applying dynamic gain flattening and optical transient suppression are known, there is no characterization of the prior art that

indicates whether these techniques are applied to all of the optical signals at a given layer nor as to which optical layers these techniques might be applied. Absent this teaching, it is unclear how this combination of references teaches performing dynamic gain flattening or optical transient suppression on each of the optical signals at each of the optical layers as recited in Applicant's claimed invention. In this instance, the Examiner appears to be relying upon hindsight reasoning given the benefit of present application.

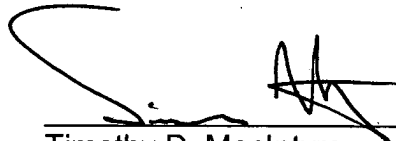
In contrast, Applicant's invention is directed to an architectural arrangement that enables optical switching at different optical layers within an optical transport network. To enable switching, signal impairment compensation is performed at each layer of the network. For instance, dispersion compensation is applied at each layer to equalize signal impairment levels. Gain flattening and optical transient suppression are also applied at each layer. In addition, these techniques must be applied to each optical signal within a given layer to achieve the signal power needed to traverse long distances.

Since the currently rejected claims recite this aspect of the present invention, it is respectfully submitted that Applicant's invention defines patentable subject matter over Nakamoto. Accordingly, applicants respectfully request the Board to reconsider and withdraw this rejection.



For the foregoing reasons, the appealed claims are patentably distinguishable over the art relied upon by the Examiner. Accordingly, Applicant's representative respectfully requests that this Board reverse the final rejection of Claims 1-7, 9-31 and 33-36.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Timothy D. MacIntyre', is written over a horizontal line.

Timothy D. MacIntyre  
Registration No. 42,824

Dated: March 1, 2006

HARNESS, DICKEY & PIERCE  
P.O.Box 828  
Troy, Michigan 48303  
(248) 641-1600

TDM/drl

## **Claims Appendix**

1. (previously presented) An architectural arrangement for launching an optical system signal into an optical transport network, the optical system signal being constituted in a layered membership relationship that defines at least two optical layers, comprising:

an optical transport line residing in the optical transport network and operable to carry the optical system signal therein;

a multiplexing component connected to the optical transport line, the multiplexing component operable to receive a plurality of optical data signals therein, combine the plurality of optical data signals to form the optical system signal, and launch the optical system signal into the optical transport line; and

a plurality of signal impairment compensation mechanisms associated with the multiplexing component, the plurality of signal impairment compensation mechanisms operable across each of the optical layers of the optical system signal to perform a signal impairment compensation operation on each of the optical signals therein, where the signal impairment compensation operation includes dynamic gain flattening, optical transient suppression and dispersion compensation.

3. (original) The architectural arrangement of Claim 1 wherein the multiplexing component further comprises a set of multiplexers operable to receive the plurality of optical data signals and combine the plurality of optical data signals to form a

plurality of intermediate optical signals, and a system level multiplexer operable to receive the plurality of intermediate optical signals and combine the plurality of intermediate optical signals to form the optical system signal.

4. (original) The architectural arrangement of Claim 3 wherein at least one signal impairment compensation mechanism is positioned at one or more inputs associated with the set of multiplexers, at one or more inputs to the system level multiplexer, and at an output of the system level multiplexer.

5. (previously presented) A method for transporting optical signals in an optical transport network, comprising:

receiving a plurality of optical data signals;

performing signal impairment compensation on each of the plurality of optical data signals, where the signal impairment compensation includes dynamic gain flattening, optical transient suppression and dispersion compensation;

selectively combining the plurality of optical data signals to form a plurality of intermediate optical signals;

performing signal impairment compensation on each of the plurality of intermediate optical signals, where the signal impairment compensation includes dynamic gain flattening, optical transient suppression and dispersion compensation;

combining the plurality of intermediate optical signals to form an optical system signal; and

launching the optical system signal into the optical transport network.

6. (original) The method of Claim 5 further comprising the steps of:

separating the optical system signal into the plurality of intermediate optical signals at a network switching site associated with the optical transport network, the network switching site interconnecting a plurality of optical transport lines; and routing at least one of the plurality of intermediate optical signals to one of the plurality of optical transport lines.

7. (original) The method of Claim 6 wherein the step of routing at least one of the plurality of intermediate optical signals further comprises using an optical switch residing at the network switching site.

8. (original) The method of Claim 6 wherein the step of routing at least one of the plurality of intermediate optical signals further comprises manually routing the at least one intermediate optical signal without the use of a switch to a multiplexer residing at the network switching site.

9. (original) The method of Claim 6 further comprising the steps of:

separating remaining intermediate optical signals into a plurality of remaining optical data signals;

routing the plurality of remaining optical data signals to a plurality of optical switches residing at the network switching site.

11. (original) The method of Claim 5 wherein the step of launching the optical system signal further comprises performing signal impairment compensation on the optical system signal.

## **Evidence Appendix**

None

**Related Proceedings Appendix**

None